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7 BUCHALTER, P.C.

8 **UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

11 QUINTARA BIOSCIENCES, INC., a California
corporation,

12 Plaintiff,

13 vs.

14 RUIFENG BIZTECH INC., a California
15 corporation, GANGYOU WANG, an individual,
ALEX WONG, an individual, ALAN LI, an
16 individual, RUI SHAO, an individual, and RF
BIOTECH LLC, a California limited liability
17 company;

18 Defendants.

19 RUIFENG BIZTECH INC., a California
corporation and GANGYOU WANG, an
20 individual;

21 Counter-Claimant,

22 vs.

23 QUINTARA BIOSCIENCES, INC., a California
corporation, RICHARD SHAN, an individual
24 and XUELING ZHAO, an individual;

25 Counter-Defendants.
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CASE NO. 3-20-CV-04808-WHA

**CORRECTED LIEN HOLDER
BUCHALTER, P.C.'S JOINDER IN
DEFENDANTS REPLY BRIEF AND
SUPPLEMENTAL REPLY RE: MOTION
FOR ATTORNEYS' FEES AND COSTS**

Court: Courtroom 12, 19th Floor
Judge: Hon. William Alsup
Date: September 14, 2023
Time: 8:00 a.m.

1 Lien holder Buchalter, P.C., hereby joins in the Reply Brief of Defendants re: Motion for
2 Attorneys' Fees and Costs, and submits the following points in Reply.

3 **A. Quintara Incorrectly Equates Its Survival of a Motion for Partial Summary**
4 **Judgment With Not Bringing or Maintaining Its DTSA Claim in Bad Faith.**

5 Plaintiff Quintara Biosciences, Inc. ("Quintara") claims that because it survived a motion
6 for partial summary judgment, that its lawsuit was not maintained or prosecuted in "bad faith."
7 Quintara even goes as far as claiming "Defendants' failure, however, to defeat Plaintiff's trade
8 secret claims on summary judgment indicates Plaintiffs' claims were not objectively specious."
9 (Dkt. No. 393 p. 10:7-8.)

10 However, the denial of a summary judgment motion does not operate to preclude an award
11 of bad faith attorneys' fees. *Flir Systems, Inc. v. Parrish*, 174 Cal. App. 4th 1270, 1283 (2009)
12 (Applying the California Uniform Trade Secrets Act: "Appellants cite no California authority that
13 the denial of a summary judgment motion in a trade secret case precludes the trial court from
14 finding, after it has heard all the evidence, that the action was brought or maintained in bad faith.")
15 In doing so, the *Flir Systems* court followed *Waller v. TJD, Inc.* 12 Cal. App. 4th 830, 836 (1994)
16 for the proposition that an "order denying summary judgment is not a basis to reverse a judgment
17 entered after trial on the merits." *Id.*

18 Indeed, the *Flir Systems* court rejected Quintara's very argument concluding "If the rule
19 were otherwise, a trade secrets plaintiff could file sham declarations to successfully oppose a
20 summary judgment motion and immunize itself from sanctions." *Id.* Thus, despite the apparent
21 comfort it finds, the denial of Defendants' Motion for Partial Summary Judgment (Dkt. No. 199)
22 provides Quintara no solace after judgment on the merits has been entered against it.¹ The Court
23 should review the evidence put on at trial regarding the merits of Quintara's claims, and the
24 evidence of bad faith submitted in Defendants' Motion for Attorneys' Fees and Buchalter's Joinder.

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27 ¹ The two unreported cases cited by Quintara (Dkt. No. 393, pp. 10:24-11:3) were decided under the California Uniform
28 Trade Secrets Act. Buchalter was unable to find any authority that the denial of a summary judgment motion operates
to preclude a finding of "bad faith" attorneys' fees under the Defend Trade Secrets Act.

1 **B. Quintara’s Principals’ and Its Counsel’s Sworn Testimony Are Conspicuously**
2 **Absent from Its Opposition Papers.**

3 Buchalter provided an extensive chronicle showing the multitude of occasions Defendants
4 cited to *Flir Systems* and *Swarmify* trumpeting Defendants’ concerns Quintara was proceeding in
5 bad faith. (Dkt. No. 391, Exhs. 1-19.) Likewise, Defendants,’ through their counsel of record, made
6 scathing accusations against Quintara and its counsel regarding both objective speciousness and
7 subjective bad faith. (Dkt. No. 377.)

8 One would expect that Quintara’s principals and its counsel would respond by submitting
9 sworn declarations explaining why it continued to prosecute through a jury verdict a single trade
10 secret claim of dubious merit with questionable damages. One would also expect Quintara and its
11 counsel would submit highly-detailed declarations confronting the evidence presented. Instead,
12 Quintara submitted only the declaration of its counsel which side-steps Defendants’ and Buchalter’s
13 stated concerns about Quintara’s bad faith. (Dkt. No. 393, Pt. 1.) Quintara’s silence is very
14 troubling. Quintara’s failure to address Defendants’ and Buchalter’s evidence should amount to a
15 tacit admission that Quintara brought and maintained its trade secrets claim in bad faith.

16 DATED: August 17, 2023

BUCHALTER, A Professional Corporation

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18 By: /s/Dylan W. Wiseman
19 DYLAN W. WISEMAN
20 Attorneys for Lien Holder
21 BUCHALTER, P.C.
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